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Responsive to Notice of Non-Compliant Amendment remailed on 10 February 2006

**Amendment to the Drawings**

The attached replacement drawing sheets 1/7, 2/7, and 6/7 include changes to **Figures 1b, 2a, 2b, 6a, 6b, and 6c.**

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### **REMARKS AND ARGUMENTS**

#### **Amendment to the Specification**

Two paragraphs on page 12 of the specification as originally filed have been amended to correct typographical errors as a result of which the changing mats shown in Figures 1a, 1b, 2a, and 2b were previously referenced alternately by the reference numeral 11 and the reference numeral 12. For consistency, Figures 2a and 2b have been amended to change reference numeral 12 to 11 in these figures.

Another paragraph on page 12 of the specification as originally filed has been amended to correct a typographical error as a result of which the active external change aids shown in Figures 6a, 6b, and 6c were previously referenced by the reference numeral 14 instead of the reference numeral 10. For consistency, Figures 6a, 6b, and 6c have been amended to change reference numeral 14 to 10 in these figures.

#### **Amendment to the Claims**

Independent Claims 4 and 19 have been amended to simplify their preambles to recite "a changing aid". Dependent Claims 20 through 25 have been amended to conform their preambles to that of Claim 19, from which they depend. Support for referring to the present invention as a changing aid is found throughout the specification as originally filed, including in the previous wording of the preambles, as well as in the first sentence of the Summary of the Invention, where it is recited that "[t]he present invention addresses the deficiencies of the prior art by providing active external change aids that assist in the changing of articles worn external to a wearer's body" (underlining added for emphasis).

Independent Claims 4 and 19 have been amended to recite that the changing aid comprises a mat. Support for this wording is found throughout the specification as originally filed, including in the description of Figure 1a on pages 5 and 6 and in the description of Figures 2a and 2b on page 12. In addition, a mat form is clearly shown in several figures, including at least Figures 1a, 1b, 2a, 2b, 3a, 3b, 3c, 4a, and 4b.

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Independent Claims 4 and 19 have been amended to refer to the effect generating element as an "effect generating mechanism". This change has been made to preclude a rejection from being made on what is respectfully averred is an improper basis of an equation of a person to this claimed element; a person is not a mechanism and *vice versa*. Support for the reference to the effect generating element as a mechanism is found throughout the specification and drawings as originally filed.

Independent Claims 4 and 19 have been amended to describe that the effect generating element acts on an article adapted to be worn externally on a body of a wearer. Support for the amended wording is found throughout the specification as originally filed, including in these claims themselves.

Independent Claims 4 and 19 have been amended to describe that the effect generating element acts during an application of the article onto the body or a removal of the article from the body. Support for the amended wording is found throughout the specification as originally filed, including in these claims themselves.

Independent Claims 4 and 19 have been amended to describe that the effect generating element assists in the application or removal. Support for the amended wording is found throughout the specification as originally filed, including in these claims themselves.

Independent Claim 4 has been amended to describe that the effect generating mechanism comprises a magnet, an air jet, or a thermal cell. Support for the amended wording is found in the previous form of this claim itself.

Independent Claim 4 has been amended to describe that the effect generating mechanism is "adapted to move" a portion of the article, rather than "being capable of moving" the portion of the article. It is believed that the "adapted to" language is clearer than the previous "capable of" language. Support for this element being adapted to move a portion of the article is found throughout the specification as originally filed.

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Independent **Claim 19** has been amended to describe that the effect generating mechanism is "adapted to transform" a portion of the article. It is believed that the "adapted to" language is clearer than the previous somewhat circuitous "performs a transformation which modifies" language.

**Claim 20** has been amended for consistency with the amendment of **Claim 19**, from which this claim depends. **Claim 21** has likewise been amended for consistency with the change in **Claim 20**, from which this claim depends.

**Claims 22 through 25** have been amended for consistency with the amendment of **Claim 19**, from which these claims depend.

#### **Amendment to the Drawings**

Figure 1b has been amended to change reference numeral **51** to **52** and *vice versa* for consistency with Figure 1a and with the description on page 5 at lines 11 through 16 of the specification as originally filed.

Figures 2a and 2b have been amended to change reference numeral **12** to **11** in these figures in order to consistently designate the changing mats shown in Figures 1a, 1b, 2a, and 2b. For consistency, two paragraphs on page 12 of the specification as originally filed have been amended to correct typographical errors as a result of which the changing mats were previously referenced alternately by the reference numeral **11** and the reference numeral **12**.

Figures 6a, 6b, and 6c have been amended to change reference numeral **14** to **10** in these figures in order to consistently designate the changing aids shown in the figures. For consistency, a paragraph on page 12 of the specification as originally filed has been amended to correct a typographical error as a result of which the changing aids were previously referenced by the reference numeral **14** instead of the reference numeral **10**.

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### **Claim Rejections Under 35 U.S.C. § 102**

#### **Rejections Over Leonardz Reference**

In the Office Action mailed on 28 July 2003, **Claims 4, 19-22, 24, and 25** were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,249,832 to Leonardz.

Independent **Claims 4 and 19** have been amended in this response. The rejection of dependent **Claims 20 and 21** is traversed on the ground that the cited reference fails to disclose all of the limitations of these claims as originally filed.

#### **Lack of Anticipation**

As amended in this response, independent **Claims 4 and 19** recite that the active external change aid comprises a mat to which an effect generating mechanism is joined.

In contrast, the Leonardz reference discloses nothing resembling a mat. Thus, the Leonardz reference fails to teach each and every element of either independent **Claim 4** or independent **Claim 19** as amended. Because **Claims 20-22, 24, and 25** depend from **Claim 19** and thereby include every limitation of **Claim 19**, the Leonardz reference likewise fails to teach each and every element of these claims.

In addition, **Claims 20 and 21** were rejected on the basis that “the size of the circumference of the article 25” of the Leonardz reference is changed, apparently by the manipulation of the slide fastener 21 of the zipper, “as shown in figure 1.” It is respectfully noted that this basis is inaccurate in at least two ways. Nothing about the size of the garment 25 is affected by the manipulation of Leonardz’ device to move the slide fastener 21 up or down the back of the garment 25. Instead, the zipper is merely operated to open or close the back of the garment 25. As for the circumference of the garment 25, in particular, this term has no meaning except when and where the back of the garment 25 is closed because a circumference cannot be defined for an incomplete circle. In order to ensure that the representation of Figure 1 of Leonardz is not misinterpreted, it is noted that the line segment that appears to connect the two upper ends of the zipper is clearly identified as the “undergarments 26 of the person 20” (column 4:15-16) shown in the figure. Also, both **Claim 20** and **Claim 21** explicitly refer to a material property, while the

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open or closed condition of the back of the garment 25 of Leonardz is exactly that, *i.e.*, a condition, rather than a property.

Thus, the Leonardz reference fails to teach and every element of either Claim 20 or Claim 21 as originally filed.

In summary, the cited Leonardz reference fails to teach each and every element of the rejected claims. Accordingly, it is respectfully requested that the rejections of Claims 4, 19-22, 24, and 25 under 35 USC § 102(b) over the Leonardz reference be reconsidered and withdrawn.

#### Rejections Over LaVon *et al.* Reference

In the Office Action mailed on 28 July 2003, Claims 19-21, 24, and 25 were rejected under 35 USC § 102(b) as being anticipated by "U.S. Patent No. 5,330,495" to LaVon *et al.*

It is noted that the cited patent number identifies a patent to Detwiler for a disposable grafting knife. It is respectfully assumed that the intended reference is to U.S. Patent No. 5,330,459 to LaVon *et al.* and this response is written on the basis of that assumption.

#### Improper Basis for Rejection

These rejections are traversed on the ground it is improper to equate a human person with claimed structure or to substitute a human person for claimed structure in constructing a rejection. A person cannot constitute claimed structure, no matter whether an applicant attempts to claim a person or an Examiner attempts to substitute a person for claimed structure.

Additionally, it is respectfully pointed out that it is completely clear to one of skill in the art that the claimed active external change aid is provided to assist the human user and is not itself the human user. The dictionary definition of the term "aid" is "an assisting device" as, for example, a "visual aid" or a "hearing aid" (Merriam-Webster® on-line dictionary). A device is not a person and vice versa.

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Furthermore, the term "aid" with the meaning of "an assisting device" is in common use in patents. For example, it is noted that a search of the Office's on-line patent database on 18 November 2003 for issued patents having the term "aid" in the title field yielded 3,359 patents. A review of the titles of the first 50 patents listed revealed that in 43 of the 50, the term "aid" is clearly used with the meaning of "an assisting device", as in hearing aid, disposable needle stick prevention aid, construction aid, walking aid, blood vessel grafting aid, navigation aid, buoyancy aid, pill counting aid, *etc.* It is respectfully averred that none of these patents ought to have been withheld on the basis that a person could have heard something, prevented someone from being stuck with a needle, constructed something, walked, grafted a blood vessel, navigated, floated, or counted pills. Instead, the claims in these patents are directed to "assisting devices" commonly known as "aids", as are the claims in the subject Application.

#### Explanation of Rejection of Claim 25

**Claim 25** as originally filed includes the limitation that the transformation performed by the effect generating element "comprises connecting a first portion of the article with a second portion of the article". However, the explanation of the rejection of this claim in the Office Action contains nothing related to the connection of one portion of an article to another portion. In fact, the explanation refers to the topsheet being separated from the backsheet of LaVon's diaper. Therefore, the explanation of the rejection of **Claim 25** does not support the rejection.

#### Lack of Anticipation

As amended in this response, independent **Claim 19** recites that the active external change aid comprises a mat to which an effect generating mechanism is joined.

In contrast, the LaVon *et al.* '459 reference discloses nothing resembling a mat. Thus, the LaVon *et al.* '459 reference fails to teach each and every element of independent **Claim 19** as amended and because **Claims 20, 21, 24, and 25** depend from **Claim 19** and thereby include every limitation of **Claim 19**, the LaVon *et al.* '459 reference likewise fails to teach each and every element of these claims. Accordingly, it is respectfully requested that the rejections of **Claims 19-21, 24, and 25** under 35 USC § 102(b) over the LaVon *et al.* reference be reconsidered and withdrawn.

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#### Rejections Over Hasse Reference

In the Office Action mailed on 28 July 2003, Claims 19-21 and 23-25 were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,769,832 to Hasse.

#### Improper Basis for Rejection

These rejections are traversed on the same ground as that on which the rejections over the LaVon *et al.* reference were traversed, namely that it is improper to equate a human person with claimed structure or to substitute a human person for claimed structure in constructing a rejection.

#### Explanations of Rejections of Claims 20, 21, 23, and 24

With regard to Claims 20, 21, and 23, the act of disengaging an adhesive tape fastener from a release strip and thereby exposing the adhesive has no effect on any material property as required by Claim 20, but merely changes the condition of the adhesive portion of the tape fastener from covered to exposed. In particular, this action has no effect on the tackiness as required by Claim 21, but merely exposes the adhesive without affecting its tackiness. The adhesive was stuck to the release strip prior to being exposed, which shows that it was tacky prior to being exposed. Furthermore, the exposure of the adhesive does not constitute activation of the adhesive as required by Claim 23 and as clearly described in the specification. It is respectfully noted that in addition to the clear descriptions of the relevant terms in the specification, reference to the dictionary definitions of these terms makes the inaccuracy of the explanations in the Office Action apparent. For instance, the meaning of the term "property" is "a quality or trait belonging and especially peculiar to a thing" (Merriam-Webster® on-line dictionary). Clearly, merely exposing an adhesive does not affect its peculiar qualities or traits and certainly does not make it tacky. Similarly, the meaning of "activate" is "to make active" (Merriam-Webster® on-line dictionary). Merely exposing the adhesive, while making it available for use, does not change any of its peculiar qualities or traits in such a way as to make it active for the first time. As an aid for understanding, an analogy can be made that removing the lid from a jar containing water does not make the water wetter or drier, *i.e.*, does not affect a property of the water, but merely exposes the water.



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With regard to **Claim 24**, it is the exposure, *i.e.*, the exposed condition, of the adhesive portion of the tape fastener that is temporary, not the tackiness or any other material property. The adhesive tape would not remain stuck to the backsheet if the adhesive did not remain tacky, *i.e.*, if its tackiness were indeed temporary.

Therefore, the explanations of the rejections of **Claims 20, 21, 23, and 24** do not support those rejections.

#### Lack of Anticipation

As amended in this response, independent **Claim 19** recites that the active external change aid comprises a mat to which an effect generating mechanism is joined.

In contrast, the Hasse '832 reference discloses nothing resembling a mat. Thus, the Hasse reference fails to teach each and every element of independent **Claim 19** as amended and because **Claims 20, 21, and 23-25** depend from **Claim 19** and thereby include every limitation of **Claim 19**, the Hasse reference likewise fails to teach each and every element of these claims. Accordingly, it is respectfully requested that the rejections of **Claims 19-21, and 23-25** under 35 USC § 102(b) over the Hasse reference be reconsidered and withdrawn.

#### **Prior Art Made of Record**

Several references were characterized in the Office Action as pertinent. The following comments are provided to respectfully point out some differences between the disclosures of those references and the present invention.

#### U.S. Patent 6,080,189 to Augustine *et al.*

The effect generating mechanisms (previously "elements") of the claimed invention act on the article during its application or during its removal to assist in that application or removal.

In contrast, the Augustine *et al.* reference discloses what is called a "thermal effect" in the Office Action, which "thermal effect" occurs during the time the bandage is being worn, rather than

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during its application or during its removal. Thus, this reference does not disclose an aid that assists in the application or removal of the bandage.

U.S. Patent 4,915,272 to Vlock, U.S. Patent 5,566,398 to Deagan, and U.S. Patent 5,658,353 to Layton

A "jet" is "a usually forceful stream of fluid (as water or gas) discharged from a narrow opening or a nozzle" (Merriam-Webster® on-line dictionary). Nozzles are clearly shown in Figures 4a and 4b of the subject Application. Also shown in Figure 4b are jets being discharged from nozzles and acting to move a portion of an externally worn article.

In contrast, neither the Vlock reference, nor the Deagan reference, nor the Layton reference discloses an air jet as stated in the Office Action. Instead, Vlock discloses a glove inflator that withdraws air from a chamber, while Deagan discloses a bladder that is inflated between a helmet and the head of a wearer and Layton discloses a device that withdraws air to draw a residual limb into the socket of a prosthesis or pressurizes the socket to expel the limb.

#### Summary of Response

In light of the amendments and remarks in this response, it is respectfully requested that the pending claims be allowed. It is also requested that the replacement drawing sheets be substituted for the indicated sheets.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By: Michael P. Hayden  
Michael P. Hayden

Registration No. 48,433

Phone: (513) 634-5801

Fax: (513) 945-2958 or (513) 634-3499

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Customer No. 27752